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ipa.mail@hp.com
laura.m.clark@hp.com



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/698,196
Filing Date: October 30, 2003
Appellant(s): HARVILLE, et al

John P. Wagner, Jr.
Reg. No. 35,398
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 1, 2011 appealing from the Office action mailed February 3, 2011.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection to Be Reviewed on Appeal*

The appellant's statement of the issues in the brief is correct.

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,529,950	LUMELSKY et al.	03-2003
5,341,477	PITKIN et al.	08-1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 38-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumelsky et al. (hereinafter "Lume", US Patent 6,529,950) in view of Pitkin et al. (hereinafter "Pitkin", US Patent 5,341,477).

As per claim 1, Lume discloses a method for managing a streaming media service, said method comprising:

- receiving a request for a service from a client, said service comprising a service component (col. 5, lines 61-67);
- selecting a service location manager (negotiator) to which to provide said request from a plurality of service location managers (col. 6, lines 3-18); and

- selecting a service provider to which to assign said service component from a plurality of service providers of a network, wherein said selecting said service provider is performed by said service location manager (col. 6, lines 25-33, 50-59);
- informing said service provider of said assignment to perform said media service component, causing said service provider to prepare to perform said streaming media service on streaming media (col. 3, lines 60-67, col. 8, lines 26-30).

Lume does not explicitly disclose:

- providing said client information for locating and contacting said service provider to receive said streaming media from said service provider without utilizing said service location manager.

However, in an analogous art, Pitkin teaches a broker (service location manager) receiving client requests for services and suggesting/selecting servers to implement the requested service.

Servers are stored and shown to the user as entries in a preview window. The client accesses the service through the entries presented. If the first server entry fails, the client attempts to use the second server entry without having to reconnect to the broker (column 10, lines 53-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lume's method decreasing client connection time.

As per claim 38, Lume discloses wherein said selecting said service location manager comprises:

- maintaining a record comprising identifying information of a service location manager among said plurality of service location managers (col. 8, lines 22-30); and
- selecting said service location manager according to said record (col. 6, lines 60-66).

As per claim **39**, Lume discloses wherein said selecting said service location manager comprises:

- maintaining a record comprising a prioritized list of at least one service location manager among said plurality of service location managers (col. 8, lines 20-30); and
- selecting said service location manager according to the order of priority of said list of said record (col. 8, lines 57-67).

As per claim **40**, Lume discloses wherein said selecting said service location manager comprises:

- maintaining a record comprising identifying information for a set of service location managers among said plurality of service location managers (col. 8, lines 22-33) and
- selecting said service location manager randomly from said record (col. 8, lines 57-67).

As per claim **41**, Lume discloses wherein said selecting said service location manager comprises:

- maintaining a record comprising identifying information for a set of service location managers among said plurality of service location managers (col. 9, lines 57-67); and
- selecting said service location manager in a round robin manner from said record (col. 8, lines 57-67).

As per claim **42**, Lume discloses:

- wherein said selecting said service location manager comprises a comparison of processing loads of at least two service location managers among said plurality of service location managers (col. 3, lines 51-61).

As per claim **43**, Lume discloses:

- wherein said selecting said service location manager comprises a comparison of available resources of a first set of service providers supervised by said service location manager and available resources of a second set of service providers supervised by a second service location manager (col. 4, lines 61-67,col. 4, lines 1-8).

As per claim **44**, Lume discloses:

- wherein said selecting said service location manager is based on an estimate of a network communication condition between two entities connected by the network (col. 6, lines 62-67 and col. 4, lines 1-17).

As per claim **45**, Lume discloses:

- wherein said estimate of said network communication condition is associated with said client (col. 6, lines 1-10 and col. 4, lines 50-67).

As per claim **46**, Lume discloses:

- wherein said estimate of said network communication condition is associated with a content source of said streaming media (column 6, lines 25-34).

As per claim **47**, Lume discloses wherein said selecting said service location manager is based on one of the group consisting of:

- pending service application request queue length of a service location manager, expected latency of a service location manager for assigning said service request, and available network communication bandwidth of a service location manager (col. 8, lines 25-34).

As per claim **48**, Lume discloses:

- notifying a second service location manager among said plurality of service location managers of the assignment of said service provider to perform said media service component (col. 5, lines 35-60).

As per claim **49**, Lume discloses:

- notifying a second service location manager among said plurality of service location managers of the completion of performance of said media service component (col. 6, lines 45-60).

As per claim **50**, Lume discloses:

- a second service location manager assuming the role of said service location manager if said service location manager is determined to be non-responsive (col. 6, lines 53-67).

As per claim **51**, Lume further discloses:

- maintaining a record comprising identifying information of a set of service location managers among said plurality of service location managers, each service location manager of said set of service location managers supervising said service provider (col. 6, lines 50-67 and col. 8, lines 3-17).
- notifying said set of service location managers according to said record of said assignment of said service provider to perform said media service component (col. 8, lines 33-40).

As per claim **52**, Lume discloses:

- wherein said maintaining and said notifying is performed by said service provider or said service location manager (col. 6, lines 50-67).

As per claim **53**, Lume further discloses:

- maintaining a record comprising identifying information of a set of service location managers among said plurality of service location managers, each service location manager of said set of service location managers supervising said service provider (col. 8, lines 44-57).
- notifying said set of service location managers according to said record of the completion of performance of said media service component by said service provider (col. 8, lines 55-67).

As per claim **54**, Lume discloses:

- wherein said maintaining and said notifying is performed by said service provider or said service location manager (col. 3, lines 11-17).

As per claim 55, Lume discloses:

- wherein said service provider is supervised by more than one service location manager among said plurality of service location managers (col. 6, lines 57-67).

As per claim 56, Lume discloses a system for providing streaming content to a client device, said system comprising:

- a plurality of service location managers (col. 6, lines 3-18);
- a plurality of service providers (col. 6, lines 25-35),
- each service provider capable of performing a service on an item of streaming input content to produce said streaming content (col. 6, lines 50-59); and
- a portal providing a first point of contact for said client device, said portal for receiving from said client device a request for performance of said service on an item of streaming input content, said portal for selecting a service location manager to which to provide said request from said plurality of service location managers, said service location manager for receiving said request from said portal and for selecting a service provider from said plurality of service providers and informing said service provider of said assignment to perform said service on said streaming input content to produce said streaming content ((col. 4, lines 65-67, col. 5, lines 15-27, 58-67, col. 6, lines 1-2, 25-59, col. 8, lines 25-35, col. 10, lines 45-50).

Lume does not explicitly disclose:

- for providing said service provider with information to transfer communication from said portal to said service provider for providing said streaming content to said client from said service provider

However, in an analogous art, Pitkin teaches a broker (service location manager) receiving client requests for services and suggesting/selecting servers to implement the requested service.

Servers are stored and shown to the user as entries in a preview window. The client accesses the service through the entries presented. If the first server entry fails, the client attempts to use the second server entry without having to reconnect to the broker (column 10, lines 53-67).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lume's method decreasing client connection time.

As per claim **57**, Lume discloses:

- wherein said portal maintains a record comprising a prioritized listing of at least one service location manager among said plurality of service location managers and selects said service location manager in order of priority according to said prioritized listing (col. 6, lines 25-40).

As per claim **58**, Lume discloses:

- wherein said portal maintains a record comprising identifying information of a set of service location managers among said plurality of service location managers and selects said service location manager in a round robin manner from said record (col. 6, lines 20-35).

As per claim **59**, Lume discloses:

- wherein said portal selects said service location manager by comparing processing loads of at least two service location managers among said plurality of service location managers (col. 3, lines 51-67).

As per claim **60**, Lume discloses:

- wherein said portal selects said service location manager by comparing available resources of a first set of service providers supervised by said service location manager and available resources of a second set of service providers supervised by a second service location manager (col. 4, lines 61-67 and col. 5, lines 1-8).

As per claim **61**, Lume discloses:

- wherein said portal selects said service location manager based on an estimate of a network communication condition between two entities connected by the network (col. 8, lines 50-67).

As per claim **62**, Lume discloses:

- wherein said service location manager notifies a second service location manager among said plurality of service location managers of said assignment of said service provider to perform said service (col. 9, lines 22-40).

As per claim **63**, Lume discloses:

- wherein said portal determines if said service location manager of said plurality of service location managers is non-responsive (col. 9 , lines 53-67).

As per claim **64**, Lume discloses:

- wherein said portal activates a second service location manager of said plurality of service location managers to assume the role of said service location manager, provided said portal determines said service location manager to be non-responsive (col. 6 , lines 53-67).

As per claim **65**, Lume discloses:

- wherein said service provider is supervised by more than one service location manager of said plurality of service location managers (col. 5, lines 65-67 and col. 6, lines 1-8).

As per claim **66**, Lume discloses:

- wherein said service provider maintains a record comprising identifying information of service location managers that supervise it (col. 6, lines 50-67).

As per claim **67**, Lume discloses:

- wherein said service provider notifies said service location managers that supervise it of said assignment to perform said service (col. 8, lines 1-20).

As per claim **68**, Lume discloses:

- wherein said service provider notifies said service location managers that supervise it of completion of performance of said service by said service provider (col. 6, lines 22-35).

As per claim **69**, Lume discloses:

- wherein said service location manager maintains a record comprising identifying information of a second service location manager that also supervises said service provider (col. 5, lines 47-58 and col. 6, lines 3-17).

As per claim **70**, Lume discloses:

- wherein said service location manager notifies said second service location manager of said assignment of said service provider to perform said service (col. 8, lines 45-57).

As per claim **71**, Lume discloses:

- wherein said service location manager notifies said second service location manager of completion of performance of said service by said service provider (col. 8, lines 50-67).

As per claim **72**, Lume discloses:

- wherein said service provider is supervised by a first service location manager, and said first service location manager transfers supervision of said service provider to a second service location manager (col. 6, lines 40-58).

As per claim **73**, Lume discloses:

- wherein said transfer is based on a computational load of said first service location manager (col. 3, lines 51-61).

As per claim **74**, Lume discloses:

- wherein said transfer is based on availability of resources of a service provider supervised by said second service location manager (col. 5, lines 40-58 and col. 6, lines 3-17).

As per claim **75**, Lume discloses:

- wherein said service provider is selected to be supervised by said service location manager based on a network communication condition between said service location manager and said service provider (col. 3, lines 62-67 and col. 4, lines 1-17).

As per claim **76**, Lume discloses:

- wherein said plurality of service location managers comprises a master service location manager that monitors the status of other service location managers of said plurality of service location managers (col. 3, lines 62-67 and col. 5, lines 1-17).

(10) Response to Argument

Appellants argued in substance that:

(a) Lumelsky teaches away from “providing performed by said computer processor, information to said client, wherein said information is for locating and contacting said service provider to receive said streaming media from said service provider without utilizing said service location manager, “ as recited in Claim 1.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that Lumelsky teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

According to Applicant's claim language, the computer processor selects a service location manager and the selected service location manager selects a service provider to assign the media service and stream requested media. “Locating and contacting said service provider to receive said streaming media from said service provider without utilizing said service location manager” refers back to the service provider selected by the service location manager. Therefore, the service location manager is utilized to select service provider but is not used for contacting the service provider to receive said streaming media.

Lumelsky teaches an RMF sytem for discovering, negotiating, and controlling media session between media servers and end users (Abstract, column 5, lines 4-28).

The RMF system has a Negotiator (computer processor) that receives requests from Users (clients) for media services and selects an appropriate Service Mapper component (service location manager) to locate Media Servers (service providers) to accommodate the request. When the Service Mapper has selected Media Servers for handling the service request, this information is sent to back to the Negotiator and the Negotiator provides this information to the requesting User (client) to select or accept a Media Server to provide the requested media. Once the selection is made by the User (client), the Media Server is contacted to preview or start the media stream with no further utilization of the Service Mapper (column 5, lines 62-65, column 6, lines 3-10, 18-21, 27-32, 59-61, column 7, lines 57-60, column 8, lines 26-33, column 10, lines 2-3, 17-26, 58-60, column 11, lines 8-10, 13-15, 20-30).

Although, Lumelsky teaches the limitation above, Pitkin is cited in the Final OA for teaching this limitation as well.

In Pitkin, a Broker Mechanism (service location manager) is used to suggest to Users (clients) an Appropriate Server (service provider) for delivering requested service. Once the suggested Appropriate Servers are sent to the User (client), the User connects to the Appropriate Server without any further connection with the Broker (column 2, lines 45-47, 51-55, column 4, lines 56-60, column 6, lines 10-12, column 11, lines 1-14).

Therefore, the combination of Lumelsky and Pitkin indeed discloses “providing performed by said computer processor, information to said client, wherein said information is for locating and contacting said service provider to receive said streaming media from said service provider without utilizing said service location manager,” as recited in Claim 1.

(b) Since Lumelsky teaches away from Claim 1, there is no motivation to combine Lumelsky with any other asserted art, such as Pitkin, to remedy the deficiencies in Lumelsky to render Claim 1 obvious.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In this case, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lumelsky's

method providing an alternate server to deliver the requested service thereby decreasing client connection time (Pitkin, column 11, lines 5-14).

(c) Lumelsky teaches away from “said service location manager...for providing said service provider with information to transfer communication from said portal to said service provider for providing said streaming input content to said client device from said service provider”, as recited by Claim 56.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that Lumelsky teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Lumelsky teaches mapping user preferences and capabilities (providing information) of the User (client) to appropriate Media Server (service provider). The request for service contains a service identifier along with other request criteria (information) used for selecting and streaming the requested media. The Content Provider (service provider) uses the information in the request from the Service Mapper (service location manager) to provide the appropriate content (column 3, lines 42-48, 60-67, column 4, lines 23-30, column 5, lines 43-50, column 10, lines 30-38, 41-48).

Therefore, the combination of Lumelsky and Pitkin undoubtedly discloses “said service location manager...for providing said service provider with information to transfer communication from said portal to said service provider for providing said streaming input content to said client device from said service provider”, as recited by Claim 56.

(d) Since Lumelsky teaches away from Claim 56, there is no motivation to combine Lumelsky with any other asserted art, such as Pitkin, to remedy the deficiencies in Lumelsky to render Claim 56 obvious.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In this case, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lumelsky's

method providing an alternate server to deliver the requested service thereby decreasing client connection time (Pitkin, column 11, lines 5-14).

(e) Pitkin teaches away from Claim 1. “The broker thus suggests to the client a server,” teaches away from “selecting...a service provider to which to assign said media service component,” as discloses by Claim 1.

In response to applicant's argument that Pitkin teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Pitkin teaches a Broker Mechanism (service location manager) used to suggest to Users (clients) an Appropriate Server (service provider) for delivering requested service. Once the suggested Appropriate Servers are sent to the User (client), the User connects to the Appropriate Server without any further connection with the Broker (column 2, lines 45-47, 51-55, column 4, lines 56-60, column 6, lines 10-12, column 11, lines 1-14).

Although, Pitkin teaches the limitation above, Lumelsky is cited in the Final OA for teaching this limitation as well.

Lumelsky teaches an RMF sytem for discovering, negotiating, and controlling media session between media servers and end users (Abstract, column 5, lines 4-28).

The RMF system has a Negotiator (computer processor) that receives requests from Users (clients) for media services and selects an appropriate Service Mapper component (service location manager) to locate Media Servers (service providers) to accommodate the request. When the Service Mapper has selected Media Servers for handling the service request, this information is sent to back to the Negotiator and the Negotiator provides this information to the requesting User (client) to select or accept a Media Server to provide the requested media. Once the selection is made by the User (client), the Media Server is contacted to preview or start the media stream with no further utilization of the Service Mapper (column 5, lines 62-65, column 6, lines 3-10, 18-21, 27-32, 59-61, column 7, lines 57-60, column 8, lines 26-33, column 10, lines 2-3, 17-26, 58-60, column 11, lines 8-10, 13-15, 20-30).

Therefore, the combination of Lumelsky and Pitkin indeed discloses “selecting...a service provider to which to assign said media service component,” as discloses by Claim 1.

(f) Pitkin teaches away from “informing...said service provider of said assignment to perform said media service component,” and “causing said service provider to prepare to perform said streaming media service on streaming media,” as recited by Claim 1.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that Pitkin teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied

upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Pitkin teaches a Broker Mechanism (service location manager) used to suggest to Users (clients) an Appropriate Server (service provider) for delivering requested service. Once the suggested Appropriate Servers are sent to the User (client), the User connects to the Appropriate Server without any further connection with the Broker (column 2, lines 45-47, 51-55, column 4, lines 56-60, column 6, lines 10-12, column 11, lines 1-14).

Although, Pitkin teaches the limitation above, Lumelsky is cited in the Final OA for teaching this limitation as well.

Lumelsky teaches mapping user preferences and capabilities (providing information) of the User (client) to appropriate Media Server (service provider). The request for service contains a service identifier along with other request criteria (information) used for selecting and streaming the requested media. The Content Provider (service provider) uses the information in the request from the Service Mapper (service location manager) to provide the appropriate content (column 3, lines 42-48, 60-67, column 4, lines 23-30, column 5, lines 43-50, column 10, lines 30-38, 41-48).

Therefore, the combination of Lumelsky and Pitkin explicitly discloses “informing...said service provider of said assignment to perform said media service component,” and “causing said service

provider to prepare to perform said streaming media service on streaming media,” as recited by Claim 1.

(g) There is no motivation to combine Pitkin with any other asserted art, such as Lumelsky, to remedy the deficiencies in Pitkin to render Claim 1 obvious.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In this case, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lumelsky's method providing an alternate server to deliver the requested service thereby decreasing client connection time (Pitkin, column 11, lines 5-14).

(h) Pitkin teaches away from Claim 56. “The broker thus suggests to the client a server,” teaches away from “selecting a service provider...and informing said service provider that it is assigned to perform said service,” as recited by Claim 56.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that Pitkin teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Pitkin teaches a Broker Mechanism (service location manager) used to suggest to Users (clients) an Appropriate Server (service provider) for delivering requested service. Once the suggested Appropriate Servers are sent to the User (client), the User connects to the Appropriate Server without any further connection with the Broker (column 2, lines 45-47, 51-55, column 4, lines 56-60, column 6, lines 10-12, column 11, lines 1-14).

Although, Pitkin teaches the limitation above, Lumelsky is cited in the Final OA for teaching this limitation as well.

Lumelsky teaches an RMF sytem for discovering, negotiating, and controlling media session between media servers and end users (Abstract, column 5, lines 4-28).

The RMF system has a Negotiator (computer processor) that receives requests from Users (clients) for media services and selects an appropriate Service Mapper component (service location manager) to locate Media Servers (service providers) to accommodate the request. When the Service Mapper has selected Media Servers for handling the service request, this information is sent to back to the Negotiator and the Negotiator provides this information to the requesting User (client) to select or accept a Media Server to provide the requested media. Once the selection is made by the User (client), the Media Server is contacted to preview or start the media stream with no further utilization of the Service Mapper (column 5, lines 62-65, column 6, lines 3-10, 18-21, 27-32, 59-61, column 7, lines 57-60, column 8, lines 26-33, column 10, lines 2-3, 17-26, 58-60, column 11, lines 8-10, 13-15, 20-30).

Therefore, the combination of Lumelsky and Pitkin indeed discloses “selecting a service provider...and informing said service provider that it is assigned to perform said service,” as recited by Claim 56.

(i) There is no motivation to combine Pitkin with any other asserted art, such as Lumelsky, to remedy the deficiencies in Pitkin to render Claim 56 obvious.

In response, Applicant's argument filed has been fully considered but is not persuasive.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where

there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In this case, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate Pitkin's providing client information for locating and contacting a service provider without utilizing a service location manager in Lumelsky's method providing an alternate server to deliver the requested service thereby decreasing client connection time (Pitkin, column 11, lines 5-14).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Barbara Burgess

/Barbara N Burgess/
Primary Examiner, Art Unit 2457

Conferees:

/LaShonda T Jacobs/
Primary Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457